

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:10-CT-3048-BO

FILED

AUG 04 2010

JOSEPH ZACKULAR,  
Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,  
Defendants.

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)  
v. )  
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)

ORDER

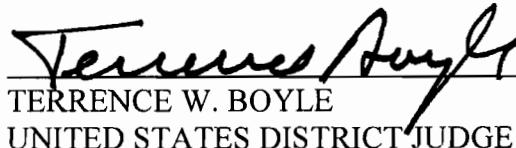
DENNIS P. IAVARONE, CLERK  
US DISTRICT COURT, EDNC  
BY  DEP CLK

On April 8, 2010, plaintiff filed a civil rights action pursuant to 42 U.S.C. § 1983. (D.E. # 1)

On August 2, 2010, the court received a document which shall be construed as a motion for voluntary dismissal without prejudice. (D.E. # 4) The matter is ripe for determination.

Federal Rule of Civil Procedure 41(a)(1) allows for the dismissal of an action voluntarily by a plaintiff through the filing of a notice of dismissal any time before service by the adverse party of an answer or of a motion for summary judgment. As of this date, only the complaint has been filed. Thus, upon full review of the matter, the court finds it appropriate to ALLOW the stipulation for a voluntary dismissal without prejudice pursuant Rule 41(a)(1). In doing so the April 9, 2010, order requiring payment of the entire \$350.00 filing fee is VACATED and the monies collected, if any, must be returned to Zackular's trust fund account. The Clerk is DIRECTED to notify the Department of Correction to cease drafting funds from Zackular's trust account for this case.

SO ORDERED, this the 7 day of August 2010.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE